

Appl. No. 09/755,673

### REMARKS

Claims 1-26 are pending this application. Reconsideration in view of the remarks that follow is requested.

Claims 1-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Publication US 2002/0076938 A1 to Moradi et al., in view of U.S. Patent No. 5,886,364 to Zhang. Applicants request reconsideration of the rejections.

Claims 1-26 are allowable over the Examiners cited combination of references for at least the reason that the combination relies on a reference that is not prior art under 35 U.S.C. §103(c). Specifically, the Moradi et al. reference qualifies as prior art only under 35 U.S.C. §102(e); and the Moradi et al. reference and the instant application were commonly assigned to Micron Technology, Inc., at the time of the invention of the instant application. Accordingly, the Applicants request withdrawal of the §103 rejection of claims 1-26.

Furthermore, the Examiner is respectfully referred to MPEP §2142, which recites, in part:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The Zhang reference fails to teach or suggest the use of AIN or AION as a dielectric material in the construction of a capacitor. Therefore, combination of the Zhang reference

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with a generic reference to a capacitor construction does not teach or suggest the invention as recited in claims 1-26 of the instant application.

In view of the foregoing, allowance of claims 1-26 is requested.

Respectfully submitted,

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By: \_\_\_\_\_

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Filing Date .....1/5/2001  
Inventor.....Forbes et al.  
Assignee .....Micron Technology, Inc.  
Group Art Unit.....2823  
Examiner ..... Nguyen, K.D.  
Attorney's Docket No. ....MI22-1531  
Title: Methods of Forming Capacitor Structures, and Capacitor Structures

VERSION WITH MARKINGS TO SHOW CHANGES MADE ACCOMPANYING  
RESPONSE TO AUGUST 28, 2002 OFFICE ACTION

Amendments to Claims

None.

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